

# Attachment



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

Index No.:

**KAMMIELE LIMA-LECLERC**

BY

**DALIA YLUMINADA LECLERC PAULINO**

As Parent

Plaintiff,

-against-

**MAJOR LEAGUE BASEBALL PLAYERS BENEFIT PLAN**

Defendant.

**SUMMONS WITH COMPLAINT**

**LAW OFFICES OF SERGIO VILLAVERDE, PLLC**

Attorney for Plaintiff

295 Madison Avenue, 23<sup>rd</sup> fl.

New York, N.Y. 10017

(212-370-5297)



**SERGIO VILLAVERDE, ESQ.**

Signature Pursuant to 22NYCRR 130.1



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
KAMMIBEL LIMA-LECLERC,

BY

DALLA YLUMINADA LECLERC PAULINO,  
As Parent

Plaintiff(s),

-against-

MAJOR LEAGUE BASEBALL PLAYERS BENEFIT PLAN,


Defendant.  
-----X

To the above named Defendant:

**YOU ARE HEREBY SUMMONED** to serve a notice of appearance on the Plaintiff's Attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear, judgment will be taken against you by default for the relief demanded in the annexed complaint.

Dated: December 5, 2012

Law Offices of Sergio Villaverde, PLLC

  
By: Sergio Villaverde, Esq.  
Attorney for Plaintiff  
295 Madison Ave., 23<sup>rd</sup> Floor  
New York, NY 10017  
(212) 370-5297

To:  
Major League Baseball Player's Benefit Plan  
Plan Administrator  
200 Public Square  
Cleveland, Oh 44114-2316

Index No. 309400-2012

Plaintiff designates Bronx  
County as the place of trial.  
The basis of venue are  
Plaintiff's Residence and  
Defendant's Conduct of Business

SUMMONS

12 DEC -5 AM 10:44  
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BRONX COUNTY

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X Index No.

KAMMIELL LIMA-LECLERC,  
BY  
DALLA YLUMINADA LECLERC PAULINO,  
As Parent

Plaintiff,

**COMPLAINT**

-against-

MAJOR LEAGUE BASEBALL PLAYERS BENEFIT PLAN,

Defendant,

-----X  
STATE OF NEW YORK

ss.

COUNTY OF NEW YORK

The Plaintiff Kammiell Lima-LeClerc and Dalla Yluminada LeClerc Paulino as Parent Plaintiff, by Law Offices of Sergio Villaverde, PLLC, complaining of the Defendant, allege the following:

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**NATURE OF ACTION**

1. This is an action for a declaratory judgment that the Defendant, Major League Baseball Players Benefit Plan, recognizes Kammiell Lima-LeClerc as a child of a participant of the Major League Baseball Players Pension Plan, as a surviving beneficiary and is to be treated equally in regard to benefit payments as a dependent child.
2. That the Defendant, Major League Baseball Players Benefit Plan be enjoined and restrained from discriminating against the infant Plaintiff on the basis of parental marriage or lack thereof.

**THE PARTIES**

3. That at all times hereinafter mentioned, Plaintiffs are Ms. Kammiell Lima-LeClerc and Dalla Yluminada LeClerc Paulino as the Parent Plaintiff, and at all relevant times mentioned in this complaint reside at La Damas, Calle 3, #1, Santiago, Dominican Republic and in New York State at 3015 Riverdale Avenue, Bronx, NY 10463. The infant Plaintiff is a beneficiary and a third party beneficiary to the agreement of the Defendant and Mr. Jose Lima.

4. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is a domestic corporation with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.
5. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is a foreign corporation with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.
6. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is an unincorporated entity with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.

#### **JURISDICTION AND VENUE**

7. As the Plaintiffs are residents and by the business conduct of the Defendant this Court has personal jurisdiction over this action pursuant to any applicable statute or rule including, New York Civil Practice Law and Rules (CPLR) 302(a) (1) and U.S.C.A. Const. Amend. 14.
8. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is a domestic corporation with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.
9. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is a foreign corporation with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.
10. That at all times hereinafter mentioned, Defendant Major League Baseball Players Benefit Plan, hereinafter the plan, is an unincorporated entity with offices at 200 Public Square, Suite 900, Cleveland OH 44114. The Defendant conducts business with Major League Baseball teams including in the State of New York.
11. Upon information and belief the Defendant Major League Baseball Players Benefit Plan regularly conducts business within the State of New York, specifically within the County of Bronx, New York, and County of Queens, New York.



### **SUPPORT FOR DEMAND**

12. The infant Plaintiff is the natural child of Mr. Jose Lima and Dalla Yluminada LeClerc Paulino.
13. The infant Plaintiff received support from Mr. Jose Lima.
14. That Mr. Jose Lima held himself out to the world as the Father of the infant Plaintiff and is known to the infant Plaintiff as her Father.
15. Mr. Jose Lima as a participant of the Major League Baseball Players Pension Plan, Defendant Major League Baseball Players Benefit Plan is contractually obligated to Mr. Jose Lima and is to recognize and afford all the rights and privileges to any surviving beneficiaries upon death of any such participant.
16. On or about May 23, 2010, the Plan beneficiary, Jose Lima, died.
17. That the Defendant has failed, after demand, to provide benefits to the infant Plaintiff, Kammiell Lima-LeClerc.
18. As the infant Plaintiff is the natural child of a participant of the Major League Baseball Players Pension Plan, Mr. Jose Lima, the Plan should recognize Ms. Kammiell Lima-LeClerc and treat her as a surviving beneficiary to be regarded with benefits payments as a dependent child.
19. The agreement between the plan and Jose Lima was in full force and effect with Jose Lima as a participant of the Major League Baseball Players Pension Plan, Plaintiff Kammiell Lima-LeClerc born August 10, 2007 was and remains a surviving beneficiary upon the death of Jose Lima.
20. Plaintiff Kammiell Lima-LeClerc and Dalla Yluminada LeClerc Paulino as Parent Plaintiff, has demanded and continues to demand that the Defendant recognize the child Plaintiff, a child of one of the participants of the Major League Baseball Players Pension Plan, as a surviving beneficiary and to be treated in regard to benefit payments as a dependent child, yet the Defendant has refused said treatment.
21. Infant Plaintiff qualifies for all applicable benefits under the plan. Infant Plaintiff is an equal beneficiary of Mr. Jose Lima and should be treated as such by the Defendant, Major League Baseball Players Benefit Plan. Infant Plaintiff should be treated as if she was a dependent of a deceased Member who is not receiving more than half of her support from a Qualified Spouse entitled to a widow's benefit, was receiving more than half of her support from the Member in the year immediately preceding the Member's death, and paternity had been acknowledged by the Member.

22. The application of the rules by the Defendant has been discriminatory, arbitrary, capricious and antithetical to the best interest of the infant Plaintiff.

WHEREFORE, the Plaintiff(s), demands judgment against the Major League Baseball Players Benefits Plan for equal treatment to the infant Plaintiff, Kammiell Lima-LeClerc, with respect to benefit payments and any other benefits due as a dependent child of Mr. Jose Lima retroactive to the date of the death of Mr. Jose Lima together with the costs and disbursements of this action and such other relief as this court may deem just and proper.

Dated: December 5, 2012



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Sergio Villaverde, Esq.  
Law Offices of Sergio Villaverde, PLLC  
Attorneys for Plaintiff  
295 Madison Avenue, 23rd Floor  
New York, New York 10017  
Phone: (212) 370-5297  
Fax: (212) 370-0561

To:

Major League Baseball Player's Benefit Plan

Plan Administrator

200 Public Square

Cleveland, Oh 44114-2316